

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PARIS MCGOWAN,

Plaintiff,

v.

MCLANE COMPANY, INC., MCLANE
FOODSERVICE DISTRIBUTION, INC.,
MCLANE FOODSERVICE, INC.,
MCLANE SUNEAST, INC., DOES 1 TO
100,

Defendants.

CASE NO. 5:24-cv-00689-JLS-MARx

X 5:24-cv-01332-JLS-MARx

ORDER CONSOLIDATING CASES

1 On November 8, 2024, the Court issued an Order to Show Cause (“OSC”) why the
2 following three cases should not be consolidated:

- 3
- 4 • 2:23-cv-01220-JLS-MAR, *Fernando Prado v. McLane Suneast, Inc. et al*
 (“Prado”);
 - 5 • 5:24-cv-00689-JLS-MAR, *Paris McGowan v. McLane Company, Inc. et al*
 (“McGowan I”); and
 - 6 • 5:24-cv-01332-JLS-MAR, *Paris McGowan v. McLane Company, Inc. et al*
 (“McGowan II”).
- 7

8 (See, e.g., OSC in *McGowan I*, Doc. 36.) Plaintiffs and Defendants timely responded. For
9 the following reasons, the Court now ORDERS that *McGowan I* and *McGowan II* (Case
10 Nos. 5:24-cv-00689-JLS-MAR and 5:24-cv-01332-JLS-MAR) be consolidated. *Prado*
11 (2:23-cv-01220-JLS-MAR) shall proceed separately.

12 Pursuant to Federal Rule of Civil Procedure 42, a court may consolidate cases that
13 “involve a common question of law or fact.” “The district court has broad discretion under
14 this rule to consolidate cases pending in the same district.” *Invs. Rsch. Co. v. U.S. Dist. Ct.*
15 *for Cent. Dist. of Cal.*, 877 F.2d 777, 777 (9th Cir. 1989). “To determine whether to
16 consolidate, a court weighs the interest in judicial convenience against the potential for
17 delay, confusion, and prejudice caused by consolidation.” *Paxonet Commc’ns, Inc. v.*
18 *TranSwitch Corp.*, 303 F. Supp. 2d 1027, 1028 (N.D. Cal. 2003). “Rule 42(a) does not
19 prevent a court from consolidating cases even where [varying] claims are present.”
20 *Borteanu v. Nikola Corp.*, 507 F. Supp. 3d 1128, 1134 (D. Ariz. 2020), *vacated on*
21 *different grounds by* 562 F. Supp. 3d 174 (D. Ariz. 2021).

22 Here, *McGowan I* and *McGowan II* feature common questions of law and fact.
23 Both actions are brought by the same named plaintiff and allege that the same defendants
24 violated the California Labor Code by failing to: (1) pay minimum and overtime wages;
25 (2) provide meal periods and rest breaks; (3) timely pay wages upon termination; (4)
26 provide complete and accurate wage statements; and (5) reimburse business expenses.
27 (See *McGowan I* Compl., Doc. 4-1; *McGowan II* Compl., Ex. A to NOR, Doc. 1.) The
28 proposed class definition in *McGowan I* significantly overlaps with the proposed PAGA

1 definition in *McGowan II*. (See *McGowan I* Compl. ¶ 13; *McGowan II* Compl. ¶ 17.)
2 Both cases are also in the same early stages of litigation. And thus far, the parties have
3 been filing near-identical briefs in both cases, demonstrating the similarity of the issues.
4 Accordingly, judicial economy will be greatly served by consolidation, which will avoid
5 duplication of work and ensure consistent outcomes. Further, no meaningful prejudice will
6 arise from consolidating *McGowan I* and *McGowan II*, as Plaintiff Paris McGowan agrees
7 that they should be consolidated. (See Plaintiff's Response to OSC in *McGowan I*, Doc.
8 37; Plaintiff's Response to OSC in *McGowan II*, Doc. 23.)

9 *Prado*, on the other hand, should not be consolidated with the two *McGowan* cases.
10 The parties in *McGowan I* and *McGowan II* object to such consolidation, pointing out
11 several material differences between *Prado* and the *McGowan* cases; namely that *Prado*
12 involves different parties, is at a significantly later stage in the litigation process, and will
13 proceed as an individual action.¹ (See, e.g., Plaintiff's Response to OSC in *McGowan I*;
14 Defendants' Omnibus Response to OSC in *McGowan I*, Doc. 38.) Given these
15 differences, the Court concludes that judicial economy will not be served by consolidating
16 the *Prado* and the *McGowan* cases.

17 Therefore, the Court ORDERS that *McGowan I* and *McGowan II* are consolidated.
18 Going forward, all filings shall be made in *McGowan I*, Case No. 5:24-cv-00689-JLS-
19 MAR. The pending motions to dismiss and/or strike filed by Defendant McLane Suneast,
20 Inc. in *McGowan I* (Doc. 29) and in *McGowan II* (Doc 15), are DENIED as MOOT so that
21 Defendant can file a single motion to dismiss under the new, consolidated case caption.
22 Any such motion shall be filed within **ten (10) days** of the issuance of this Order.

23
24 Dated: December 8, 2024


HON. JOSEPHINE L. STATON
UNITED STATES DISTRICT JUDGE

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26
27 ¹ As the *Prado* defendants point out, the deadline to file a motion for class certification expired
28 on November 22, 2024, and no such motion has been filed. (See Order Amending Scheduling
Order, Doc. 41.)